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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,160	01/23/2004	Robert C. Lyne JR.	P1035.lyne	8161
7590	04/13/2005		EXAMINER	
Robert C. Lyne, Jr. 10207 Maremont Circle Richmond, VA 23233			JIMENEZ, MARC QUEMUEL	
			ART UNIT	PAPER NUMBER
			3726	

DATE MAILED: 04/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/764,160	LYNE, ROBERT C.	
	Examiner Marc Jimenez	Art Unit 3726	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 28 March 2005.  
 2a) This action is **FINAL**.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-20 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 10-20 is/are allowed.  
 6) Claim(s) 1-9 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 24 January 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1-5 and 7-9** are rejected under 35 U.S.C. 102(b) as being anticipated by Planz (US 3,893,500).

Planz teaches a base 12 having a longitudinal axis and, at opposite ends of the axis, a rear end 28 and a front end 30, a rear wall 32 and side walls 14,16 projecting upwardly from the base 12, a plurality of vehicle supports 24,26 projecting upwardly from the base 12 and being spaced from each other and from the side walls 14,16 so as to define longitudinal channels and transverse channels for receiving and confining laid-out side chains 62 and cross chains 64, respectively, a well 64 for receiving side chains and cross chains which have not been laid out 38, an interior wall defining a compartment adjacent the well 64 for receiving and protecting from damage due to the weight of the vehicle, a U-shaped tool 44 having spaced arms 42 connected to the ends of the side chains 38, which interior wall is located between the well 64 and the compartment (the compartment is where the tool 44 is located, the compartment clearly has an “interior wall”). It is noted that the compartment 64 could also be considered a “well” and the tool 54 could be considered a “U-shaped tool”.

Regarding claims 2-3, the wall defining the compartment where tool **44 or 54** is located is sufficiently high and is defined by a plurality of walls.

Regarding claim 4, the well **64** is defined by the rear wall and portions of the side walls **16,14**.

Regarding claim 5, the side walls **16,14** have a sufficient height.

Regarding claim 7, the side walls **14,16** have a relatively greater height defining the well **64** and a relatively lesser height near the supports **24,26**. The side walls are relatively greater in height compared to the well and a relatively lesser height compared to the supports.

Regarding claim 8, the interior wall **32** separates the well **64** from a substantial portion of the compartment.

Regarding claim 9, since there are two tools **44,54**, one could be considered a “U-shaped tool” and the other could be considered “a chain element holder”.

#### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claim 6** is rejected under 35 U.S.C. 103(a) as being unpatentable over Planz in view of Douglas et al. (US 3,845,875).

Planz teaches the invention cited with the exception of having stacking lugs and stacking

recesses.

Douglas et al. teach stacking lugs **16** and stacking recesses (above **16** in figure 5).

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Planz with stacking lugs and stacking recesses, in light of the teachings of Douglas et al., in order to be able to stack multiple trays for storage and shipping purposes.

*Allowable Subject Matter*

5. Claims 10-20 are allowed.

*Response to Arguments*

6. Applicant's arguments with respect to claims 1-9 have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

*Interviews After Final*

8. Applicant note that an interview after a final rejection will not be granted unless the intended purpose and content of the interview is presented briefly, in writing (the agenda of the interview must be in writing) to clarify issues for appeal requiring only nominal further consideration. Interviews merely to restate arguments of record or to discuss new limitations will be denied. See MPEP 714.13 and 713.09.

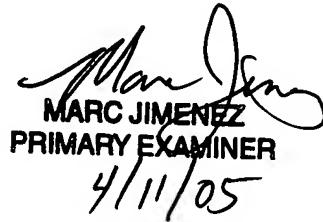
*Contact Information*

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Jimenez whose telephone number (571) 272-4530. The examiner can normally be reached on Monday-Friday between 5:30 a.m.-2:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJ  
April 11, 2005

  
MARC JIMENEZ  
PRIMARY EXAMINER  
4/11/05